STATE OF ARIZONA FILED

STATE OF ARIZONA

MAY 2 2018

DEPARTMENT OF INSURANCE
BY

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In the Matter of:

No. 18A-009-INS

JOHNSON, RAYMOND HAROLD,

ORDER

Petitioner.

On April 30, 2018, the Office of Administrative Hearings, through Administrative Law Judge Thomas Shedden, issued an Administrative Law Judge Decision ("Recommended Decision"), received by the Interim Director of the Department of Insurance ("Interim Director") on April 30, 2018, a copy of which is attached and incorporated by this reference. The Interim Director of the Department of Insurance has reviewed the Recommended Decision and enters the following Order:

- The Interim Director adopts the Recommended Findings of Fact and Conclusions of Law.
- The Interim Director denies Raymond Harold Johnson's application for an Arizona insurance producer license.

NOTIFICATION OF RIGHTS

Pursuant to Arizona Revised Statutes ("A.R.S.") § 41-1092.09, Petitioner may request a rehearing with respect to this order by filling a written motion with the Interim Director of the Department of Insurance within 30 days of the date of this Order, setting forth the basis for relief under A.A.C. R20-6-114(B). Pursuant to A.R.S. § 41-1092.09, it is not necessary to request a rehearing before filing an appeal to Superior Court.

1	Petitioner may appeal the final decision of the Interim Director to the Superior Court
2	of Maricopa County for judicial review pursuant to A.R.S. § 20-166. A party filing an appeal
3	must notify the Office of Administrative Hearings of the appeal within ten days after filing
4	the complaint commencing the appeal, pursuant to A.R.S. § 12-904(B).
5	DATED this
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7	Metil. A Colored Interior Director
8	Keith A. Schraad, Interim Director Arizona Department of Insurance
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10	COPY of the foregoing mailed this
11	2 nd day of May , 2018, to:
12	Raymond Harold Johnson 1959 S. Power Road, Ste. #103-391
13	Mesa, AZ 85206 Petitioner
14	COPY delivered same date to:
15	Mary Kosinski, Executive Assistant for Regulatory Affairs
16	Catherine O'Neil, Consumer Legal Affairs Officer Steven Fromholtz, Asst. Dir., Consumer Protection Division
17	Aqueelah Currie, Licensing Supervisor Sharyn Kerr, Consumer Protection Division
18	Arizona Department of Insurance 2910 North 44th Street, Suite 210
19	Phoenix, Arizona 85018
20	Lynette Evans Assistant Attorney General
21	1275 West Washington Street Phoenix, Arizona 85007-2926
22	Office of Administrative Hearings
23	1400 West Washington, Suite 101 Phoenix, Arizona 85007
24	Maidene Scheiner
25	Maidene Scheiner

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DEPT OF INSURANCE

IN THE OFFICE OF ADMINISTRATIVE HEARINGS

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In the Matter of:

Johnson, Raymond Harold

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No. 18A-009-INS

ADMINISTRATIVE LAW JUDGE **DECISION**

Petitioner.

HEARING: April 19, 2018

APPEARANCES: Raymond Harold Johnson on his own behalf; Liane Kido, Esq. for the Department of Insurance

ADMINISTRATIVE LAW JUDGE: Thomas Shedden

FINDINGS OF FACT

- On March 9, 2018, the Arizona Department of Insurance ("Department") 1. issued a Notice of Hearing setting the above-captioned matter for hearing on April 19, 2018 at the Office of Administrative Hearings in Phoenix, Arizona.¹
- 2. Petitioner Raymond Harold Johnson appeared and testified on his own behalf, and he also presented the testimony of Corey Smith. The Department presented the testimony of Aqueelah Currie, its Licensing Supervisor.
- 3. On January 16, 2018, Mr. Johnson filed with the Department an application for a Life Insurance Producer's License.
- 4. Through his application, Mr. Johnson disclosed that he had been found guilty of a felony.
- 5. In a letter dated February 1, 2018, the Department informed Mr. Johnson that his application had been denied based on ARIZ. REV. STAT. sections 20-295(A)(6) and (A)(8).
- 6. Mr. Johnson requested a hearing, which led to the instant matter be scheduled.

Office of Administrative Hearings 1740 West Adams Street, Lower Level Phoenix, Arizona 85007 (602) 542-9826

¹ On March 26, 2018, the Department issued a Notice or Errata showing that the location of the hearing had been listed in error.

- 7. Mr. Johnson pleaded guilty to Fraudulent Schemes and Artifices, a Class 2 felony, and Theft, a Class 2 felony. Through an Order dated August 14, 2015 issued by Maricopa County Superior Court, Mr. Johnson was placed on probation for a term of seven years, sentenced to serve 365 days in jail, and ordered to pay restitution of \$532,050 to his victim.
- 8. In the underlying criminal matter, the State filed with the Court an Allegation of Aggravating Circumstances showing that the victim was over 65 years of age, that the crimes were of a repetitive and continuing nature, and that Mr. Johnson committed the crimes while in a position of trust and confidence.
 - 9. As of the hearing date, Mr. Johnson was still on probation.
- 10. During the criminal matter, Mr. Johnson acknowledged that his guilty plea was made voluntarily and knowingly. At this hearing however, Mr. Johnson took the position that this was not the case and that he pleaded guilty because of the risk and expense of going to trial. Mr. Johnson's testimony and exhibits show that he does not accept responsibility for the crimes to which he pleaded guilty.
- 11. Mr. Smith testified as to Mr. Johnson's character as a friend and neighbor, and as a teacher in their church.
- 12. Mr. Johnson had admitted into evidence documents related to his crimes, including letters of support that were sent to the sentencing judge.
- 13. Mr. Johnson's crimes were perpetrated while he was conducting business with the victim. Because license-holders have access to the public's personal information and money, these crimes are of particular concern to the Department.
- 14. Between November 20, 1978 and November 30, 2015, Mr. Johnson was licensed by the Department. Mr. Johnson did not report his conviction to the Department because he was unaware that he was required to do so.

CONCLUSIONS OF LAW

- 1. Mr. Johnson bears the burden of persuasion. See ARIZ. REV. STAT. § 41-1092.07(G)(1).
- 2. The standard of proof on all issues in this matter is that of a preponderance of the evidence. ARIZ. ADMIN. CODE § R2-19-119.
 - 3. A preponderance of the evidence is:

The greater weight of the evidence, not necessarily established by the greater number of witnesses testifying to a fact but by evidence that has the most convincing force; superior evidentiary weight that, though not sufficient to free the mind wholly from all reasonable doubt, is still sufficient to incline a fair and impartial mind to one side of the issue rather than the other.

BLACK'S LAW DICTIONARY 1373 (10th ed. 2014).

- 4. The preponderance of the evidence shows that Mr. Johnson has been convicted of fraudulent schemes and artifices and of theft, which are felonies. These convictions show that Mr. Johnson used fraudulent, coercive or dishonest practices, or demonstrated incompetence, untrustworthiness or financial irresponsibility in the conduct of business in this state. Consequently, the Department's Director has discretion to deny Mr. Johnson's application based on ARIZ. REV. STAT. sections 20-295(A)(6) and (A)(8).
- 5. Mr. Johnson is on probation for his crimes and he does not accept responsibility for his actions, which weigh against him.
- 6. Mr. Johnson has failed to demonstrate by a preponderance of the evidence that the Department's decision to deny his application should be overturned.
 - 7. Mr. Johnson's appeal should be dismissed.

ORDER

IT IS ORDERED that Raymond Harold Johnson's appeal is dismissed.

In the event of certification of the Administrative Law Judge Decision by the Director of the Office of Administrative Hearings, the effective date of the Order is five days after the date of that certification.

Done this day, April 30, 2018

/s/ Thomas Shedden
Thomas Shedden
Administrative Law Judge

Transmitted electronically to:

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Leslie R. Hess, Interim Director Arizona Department of Insurance